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THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA, CA 90404

EXAMINER
NEWLIN, TIMOTHY R

ART UNIT	PAPER NUMBER
2424	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
> WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
>   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 September 2008*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *22-44 and 46-79* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *22-44 and 46-79* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage

          application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   The Supplemental 131 Declaration and Remarks filed on 9/16/2008 under 37

CFR 1.131 have been considered and are sufficient to remove Karstens, US

2004/0044532 as prior art. New art rejections are made below.

Claim Rejections - 35 USC § 112

2.   Claim 47 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The first limitation ("providing…") appears to be missing a

word, immediately following the word "two". Based on the similar limitation recited in

claim 48, claim 47 will be assumed to read "at least two receivers" for purposes of

examination. Correction is required.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 22-44 and 69-71 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Chen et al., US 2002/0122137 in view of Toguri, US 2002/0053085.

5.   Regarding claim 22, Chen discloses a method of providing content data to a

viewer of a media presentation in conjunction with the media presentation, comprising:

        providing a viewer of the media presentation with a portable device, the portable

device being remote from the presentation of the media presentation and capable of

receiving wireless communications and displaying content data relating to the media

presentation **[TCD 120, Fig. 3, paras. 27, 31, 43]**;

        transmitting content data to the portable device **[e.g., paras. 30, 42]**; and

        displaying the content data on the portable device **[video output 126 and**

screen 127, Fig. 3; paras. 30, 43].

        Chen is silent on storing data in the receiving device before being displayed in

response to timing information.   Toguri teaches accumulating content data in the cache

memory of a terminal device **[AV contents and metadata are transmitted to and**

stored in terminal apparatus 9; one option is batch (as opposed to real-time)

delivery, i.e. the data is stored in advance of presentation, paras. 90, 91, 100].

Toguri also transmits a time prompt to the portable device, the time prompt triggering

the content data to be displayed on the portable device such that the content data is

displayed in synchronization with the presentation of a corresponding portion of the

media presentation **["reproduction time" or time prompt is used by the terminal to**

synchronously display metadata corresponding to the media presentation, S12

and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9, 79; terminal integrates,

synchronizes, and displays A/V contents (analogous to the claimed "media

presentation") with metadata (analogous to the claimed "content data"; para.

149].

Although Chen lacks specific disclosure of caching and timing operations, he

does teach that the presentation of streams may be executed automatically **[para. 29]**,

implying the need for timing information to provide a trigger. Chen also uses event

identifiers to select and display auxiliary streams **[paras. 55, 57]**. These

synchronization techniques would suggest to one of ordinary skill that a time prompt

could also be used to trigger the display of corresponding auxiliary information as taught

by Toguri. Therefore, the combination of Chen and Toguri is an obvious in order to

synchronize primary content and metadata, for example to display player portraits or

statistics at a relevant time in a televised sporting event **[see Chen, para. 28]** or to

synchronize questions and answers in a play-along trivia game **[see Chen, paras. , 59]**.

6.   Regarding claims 23 and 24, Chen discloses a method wherein the at least one

time prompt is transmitted by way of infrared signal or RF signal **[para. 40]**.

7.   Regarding claims 25-32, Toguri discloses a method wherein the media

presentation or the content data may comprise graphics, text, video, audio, or a

combination of audio and video data **[e.g., Chen Abstract; Toguri paras. 149 and**

150].

8.   Regarding claim 33, Chen discloses a method wherein the at least one time

prompt is representative of a time of day **[TCD selects particular stream at

predetermined time of day, para. 30]**.

9.   Regarding claim 34, Chen discloses a method wherein the at least one time

prompt is representative of a time at which the media presentation starts **[Toguri,

paras. 103, 104, 118-121]**.

       Regarding claims 35 and 36, Chen discloses a method wherein the portable

device comprises speakers and/or a display **[Fig. 3, para. 43]**.

       Regarding claims 37 and 38, Chen does not refer to the mobile device as a

"personal digital assistant" or cellular phone. However, the TCD described is comprised

of an antenna, transceiver, speaker, and input keys **[see Figs. 1, 3]**. Given the

component described, a person of ordinary skill would find it obvious that a PDA or cell

phone could be used as the portable device. Both devices have the same components

as the disclosed TCD and are capable of the same functions. The benefit is that these

devices already have the capability to communicate and display data and they are

ubiquitous among the public; additional portable devices need not be supplied to

viewers that already possessing this type of device. This could allow restaurants, for

example, to service more customers with a smaller inventory of "TCDs" per se.

10.   Regarding claim 39, Toguri discloses a method wherein the media presentation

is a pre-recorded presentation **[Fig. 21, para. 160]**.

11.   Regarding claim 40, Chen and Toguri disclose a method wherein the pre-

recorded presentation is a movie **[Chen paras. 53-56, Toguri paras. 73, 108, 129]**.

12.   Regarding claim 41, Chen discloses a method wherein the pre-recorded

presentation is a movie and the content data is text captioning **[closed caption data is**

an example of auxiliary information that can be provided via TCD rather than TV,

para. 10].

13.   Regarding claim 42, Chen discloses a method wherein the pre-recorded

presentation is a movie and the content data comprises descriptive audio for the blind

[audio data can be presented via TCD, e.g., Chen Abstract; Toguri paras. 149 and

150].

14.   Regarding claim 43, Chen discloses a method wherein the content data is a

visual narrative, the visual narrative being displayed in one of a plurality of languages

[para. 43].

15.   Regarding claim 44, Chen discloses a method wherein the content data is an audio narrative, the audio narrative being played in one of a plurality of languages **[para. 43; e.g., Chen Abstract; Toguri paras. 149 and 150]**.

16.   Regarding claims 58, 61, and 66, Chen discloses a method wherein the media presentation is live **[e.g. a sports broadcast, para. 28]**.

17.   Regarding claim 70, Toguri discloses a method wherein content data is transmitted to the portable device at the start or slightly in advance of the start of the media presentation **[para. 90]**.

18.   Regarding claim 71, Chen discloses a method further providing inputs on the portable device adapted to receive information from the viewer **[inputs 129, 130, Fig. 3]**.

19.   Claims 46-68 and 72-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toguri, US 2002/0053085in view of Chen et al., US 2002/0122137.

20.   Regarding claim 46, Toguri discloses a method of interactive communication

during a media presentation, comprising:

        presenting the media presentation at a first location using media presentation

data, the media presentation data having at least one time code associated with-the

media presentation data **[para. 21; time code is "reproduction time" in region 61 of**

DB21, paras. 100, 101];

        caching the media presentation data in a memory **[AV contents and metadata**

are transmitted to and stored in terminal apparatus 9; one option is batch (as

opposed to real-time) delivery, i.e. the data is stored in advance of presentation,

paras. 90, 91, 100];

        transmitting the media presentation data to the portable device and while the

media presentation is being presented, detecting one of the at least one time code

associated with the media presentation data **["reproduction time" or time prompt is**

used by the terminal to synchronously display metadata corresponding to the

media presentation, S12 and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9, 79];

        determining when the media presentation data should be displayed based on the

contents of the at least one time code and displaying the media presentation data on

the portable device in relative synchronization with the presentation of a corresponding

portion of the media presentation **[terminal integrates, synchronizes, and displays**

A/V contents (analogous to the claimed "media presentation") with metadata

(analogous to the claimed "content data"; para. 149].

While Toguri does not perform the above functions in connection with a portable device, he does discuss separate display regions for content and metadata **[Fig. 19, para. 149]**. Chen teaches providing a viewer of the media presentation with a portable device, the viewer being located at a second location remote from first location **[TCD 120, Fig. 3, paras. 27, 31, 43]**. Given the separate display regions disclosed by Toguri, it would have been obvious to one of ordinary skill that one of the displays could be integrated in a portable device. The benefits of remote display units include allowing personalized data to be sent to individuals in a public setting, and enabling parental control of content at home **[*See* Chen, para. 30]**.

21.   Regarding claim 47, Toguri discloses a method of providing content data to a viewer of a media presentation in conjunction with the media presentation, comprising:

transmitting the content data to a terminal using first receiver signals at the start or slightly in advance of the start of the media presentation and accumulating content data in a cache memory of the portable device **[AV contents and metadata are transmitted to and stored in terminal apparatus 9; one option is batch (as opposed to real-time) delivery, i.e. the data is stored in advance of presentation, paras. 90, 91, 100; storage module 108, Fig. 21]**;

transmitting at least one message to the portable device using second receiver signals, the at least one message a time when the content data should be presented on the portable device such that the content data and a corresponding portion of media presentation are displayed in synchronization **["reproduction time" or time prompt is**

used by the terminal to synchronously display metadata corresponding to the

media presentation, S12 and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9, 79];

and

presenting the data on the portable device to the viewer in synchronization with

the media presentation **[terminal integrates and synchronizes, and displays A/v**

contents (analogous to the claimed "media presentation") with metadata

(analogous to the claimed "content data"; para. 149].

While Toguri does not perform the above functions in connection with a portable

device, he does discuss separate display regions for content and metadata **[Fig. 19,**

para. 149]. Chen teaches providing a viewer of the media presentation with a portable

device, the portable device comprising at least two receivers, the portable device-

capable of presenting content data relating to the media presentation to the viewer in

conjunction with the media presentation **[TCDs 120, Fig. 3, paras. 27, 31, 43]**. Given

the separate display regions disclosed by Toguri, it would have been obvious to one of

ordinary skill that one of the displays could be integrated in a portable device. The

benefits of remote display units include allowing personalized data to be sent to

individuals in a public setting, and enabling parental control of content at home **[See**

Chen, para. 30].

22.   Regarding claim 46, Toguri discloses a method of providing content data to a

viewer of a media presentation in conjunction with the media presentation, comprising:

transmitting and accumulating content data in the cache memory of the portable

device **[AV contents and metadata are transmitted to and stored in terminal**

apparatus 9; one option is batch (as opposed to real-time) delivery, i.e. the data is

stored in advance of presentation, paras. 90, 91, 100];

transmitting at least one time prompt to the portable device using second

receiver signals, the time prompt identifying a time when the content data should be

displayed on the portable device such that the content data and a corresponding portion

of media presentation are displayed in synchronization **["reproduction time" or time**

prompt is used by the terminal to synchronously display metadata corresponding

to the media presentation, S12 and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9,

79]; and

executing the content data on the portable device in synchronization with the

media presentation **[terminal integrates, synchronizes, and displays A/V contents**

(analogous to the claimed "media presentation") with metadata (analogous to the

claimed "content data"; para. 149]..

While Toguri does not perform the above functions in connection with a portable

device, he does discuss separate display regions for content and metadata **[Fig. 19,**

para. 149]. Chen teaches providing a viewer of the media presentation with a portable

device, the portable device comprising at least two receivers, the portable device being

capable of displaying content data relating to the media presentation **[TCD 120, Fig. 3,**

paras. 27, 31, 43]. Given the separate display regions disclosed by Toguri, it would

have been obvious to one of ordinary skill that one of the displays could be integrated in

a portable device. The benefits of remote display units include allowing personalized

data to be sent to individuals in a public setting, and enabling parental control of content

at home [*See* **Chen, para. 30**].

23.   Regarding claims 49, 55, 60, and 73, Chen discloses a method further providing

inputs on the portable device adapted to receive information from the viewer [**inputs**

129, 130, Fig. 3].

24.   Regarding claims 51 and 77, Chen discloses a method wherein the portable

device further comprises at least a transceiver [**e.g., Abstract**].

25.   Regarding claims 52 and 78, Toguri discloses a method wherein the time prompt

further identifies the content data to be presented at the portable device [**e.g., para.**

101].

26.   Regarding claims 53, 57, 64, 68, 74, 75, and 79, Toguri discloses a method

wherein content data is transmitted to the portable device at the start or slightly in

advance of the start of the media presentation [**para. 90**].

27.   Regarding claims 54, 59, 60, and 65, Toguri discloses a method of providing a

viewer of a first media content with a second media content, comprising:

transmitting the second media content to the portable device **[AV contents and metadata are transmitted to and stored in terminal apparatus 9; one option is batch (as opposed to real-time) delivery, i.e. the data is stored in advance of presentation, paras. 90, 91, 100; storage module 108, Fig. 21]**;

transmitting a time prompt to the portable device, the time prompt triggering a display of the second media content on the portable device such that the second media content and a portion of the first media content are displayed in synchronization **["reproduction time" or time prompt is used by the terminal to synchronously display metadata corresponding to the media presentation, S12 and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9, 79]**; and

displaying the second media content on the portable device at a time indicated by the time prompt **[terminal integrates and synchronizes, and displays A/v contents (analogous to the claimed "media presentation") with metadata (analogous to the claimed "content data"; para. 149]**.

While Toguri does not perform the above functions in connection with a portable device, he does discuss separate display regions for content and metadata **[Fig. 19, para. 149]**. Chen teaches providing the viewer of the first media content with a portable device, the portable device being remote from a display of the first media content, the portable device being capable of receiving wireless communication and displaying the second media content **[TCDs 120, Fig. 3, paras. 27, 31, 43]**. Given the separate display regions disclosed by Toguri, it would have been obvious to one of ordinary skill that one of the displays could be integrated in a portable device. The benefits of remote

display units include allowing personalized data to be sent to individuals in a public

setting, and enabling parental control of content at home **[*See* Chen, para. 30]**.

28.   Specifically with respect to claims 60 and 65, Toguri does not show a

portable device with inputs. However, the TCD in Chen does provide input means

[inputs 129, 130, Fig. 3]. It would have been obvious to one skilled in the art to provide

user inputs to facilitate selection from the various available streams taught by Toguri

[e.g., paras. 136-138].

29.   Regarding claims 56, 62, and 67, Toguri discloses a method further comprising

accumulating the second media content in cache memory of the portable device **[AV**

contents and metadata are transmitted to and stored in terminal apparatus 9; one

option is batch (as opposed to real-time) delivery, i.e. the data is stored in

advance of presentation, paras. 90, 91, 100; storage module 108, Fig. 21].

30.   Regarding claims 58, 61, and 66, Chen discloses a method wherein the first

media content is live **[e.g. a sports broadcast, para. 28]**.

31.   Regarding claim 63, Chen discloses a method wherein the second media content

is related in content with a portion of the first media content **[e.g., paras. 28, 30]**.

32.   Regarding claim 72, Toguri discloses a method further comprising determining

what portion of the media presentation data should be displayed based on the contents

of the at least one time code **["reproduction time" or time prompt is used by the terminal to synchronously display metadata corresponding to the media presentation, S12 and S14, Fig. 2, paras. 20, 21, 93; Fig. 10, paras. 9, 79; terminal integrates, synchronizes, and displays A/V contents (analogous to the claimed "media presentation") with metadata (analogous to the claimed "content data"; para. 149]**.

33.   Regarding claims 50 and 76, Chen discloses a method wherein the at least one time prompt is transmitted by way of infrared signal or RF signal **[para. 40]**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the

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                                        /Chris Kelley/
                                        Supervisory Patent Examiner, Art
                                        Unit 2424

TRN